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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELATE JURISDICTION
CRIMINAL WRIT PETITION NO.4236 OF 2016

Hirjibhai R. Thakkar ...Petitioner
vs.
The State of Maharashtra & Anr. ...Respondents

Mr.Swapnil Ambure i/b Dinesh Tiwari & Associates for
the Petitioner
Mr.K.V.Saste, APP for the respondent No.1
Mr.L.S.Yadav i/b Hasanuddin S. Ansari for respondent
No.2

CORAM : A.S.OKA, &
SMT.ANUJA PRABHUDESSAI, JJ.
DATE : FEBRUARY 22, 2017

P.C.:

1 Rule. The learned APP waives service for the first respondent. The learned counsel for the second respondent waives service. Forthwith taken up for final disposal.

2 The prayer in this petition under Article 226 of the Constitution of India is for quashing the FIR for the offences punishable under sections 406 and 420 read with section 34 of the Indian Penal Code. The prayer for quashing is made on the basis of the amicable settlement which is reflected from the consent terms dated 17th February 2017 which are already taken on record. The consent terms have been signed by the petitioner and the second respondent. The consent terms have been signed by the son of the petitioner who is the second accused

and the second respondent. The petitioner is the first accused. The consent terms provide that the second accused will pay a sum of Rs.80,00,000/- to the second respondent as provided in clause 2 thereof.

3 The learned counsel for the second respondent states that the second respondent has no objection for quashing the FIR as against all the accused in view of the settlement and in fact an affidavit dated 7th February 2017 has been filed by the second respondent to that effect.

4 Perusal of the FIR shows that the dispute is over a commercial transaction. The dispute has predominantly a civil flavour. Now, there is a commercial settlement of the dispute as reflected from the consent terms. The second respondent has paid a donation of Rs.75,000/- to the Tata Memorial Centre, Parel, Mumbai. A receipt is placed on record in that behalf. In view of payment of the said amount, we are not passing any order as to costs. This is a fit case to exercise the power under section 482 of the Code of Criminal Procedure, 1973. Accordingly, we pass the following order:

- (I) FIR bearing Number C.R.346/16 registered at Juhu Police Station, Mumbai and all proceedings based thereon are quashed and set aside;
- (II) Rule is made absolute on above terms;

(III) All concerned to act upon an authenticated copy of this order.

(ANUJA PRABHUDESSAI,J.)

(A.S.OKA,J.)